



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,963	08/07/2003	Stephen O. Bozzone	CE11234JI023	1236

24273 7590 11/08/2005

MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDAL, FL 33322

EXAMINER

TO, TUAN C

ART UNIT

PAPER NUMBER

3663

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/635,963

Applicant(s)

BOZZONE, STEPHEN O.

Examiner

Tuan C. To

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2005 and 31 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 10-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The indicated allowability of claim 4 is withdrawn in view of the newly discovered reference(s) to Husemann et al. Rejections based on the newly cited reference(s) follow.

Election/Restrictions

Applicant's election of Group I corresponding to claims 1-9 in the reply filed on 08/31/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, and 5-9 are rejected under 35 U.S.C. 102 (b) as being anticipated by Levi et al. (US 5583776A)

Levi et al. discloses a personal tracking system, comprising a wireless communication device, a pedometer electrically coupled to the wireless communication device and an electronic compass operably positioned with respect to the pedometer, wherein readings from the pedometer and the electronic compass are received by the wireless communication device to provide position information (Levi et al., column 1, line 59; column 1, line 4), wherein the wireless communication device comprises a

Art Unit: 3663

mobile radio (Levi et al., column 1, line 67; column 2, line 4); wherein the pedometer is electrically coupled to the wireless communication device via a wired or wireless link (Levi et al., column 2, lines 5-8), wherein the pedometer comprise at least one single-axis accelerometer (Levi et al., column 3, lines 12-36); The personal tracking system of Levi et al. further comprises a barometer electrically coupled to the wireless communication device when barometric signals are received by the wireless communication device to provide altitude information (Levi et al., column 2, lines 5-8); The personal tracking system as said further comprises a GPS unit electrically coupled to the wireless communication device, wherein GPS signals from the GPS unit provide a longitude coordinate and a latitude coordinate to the wireless communication device (Levi et al., column 1, line 59; column 2, line 4). In addition, the personal tracking system of Levi et al. further comprises a server in communication with the wireless communication, wherein position information is sent from the wireless communication device to the server in response to a position request (Levi et al, column 7, lines 19-63).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3663

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levi et al. (US 5583776A) and in view of Husemann et al. (US 20040199056)

As represented herein above, Levi et al. address the limitation as recited in claim 1 except for that the pedometer is electrically coupled to the wireless communication in accordance with a protocol "IEEE 802.11".

Husemann et al. directs to a body monitoring using local area wireless interface, in which the pedometer (104D) is wireless communicating with the wireless unit (108) in accordance the protocol IEEE 802.11 (see Husemann et al., paragraph 0030).

Hence it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Levi et al. to include the teachings as taught by Husemann et al. to gain advantage therefore (i.e., a operator or authorized person located at a remote station or place can keep track on health or the current moving of a patient or a handicapped who should be taken care of.

Response to Arguments

Applicant's arguments filed 02/16/2005 that "Levi does not disclose that the pedometer is connected to the wireless communication device wireless" have been fully considered but they are not persuasive because: in Levi, the pedometer comprises a silicon accelerometer that is mounted to a user's body in order to sense harmonic motions and impact accelerations that result from walking (see Levi et al, column 3, lines 12-26). The self-contained navigation instrument is provided as the wireless

Art Unit: 3663

communication that contain built-in radio transponder for transmitting/receiving radio signal.

Conclusions

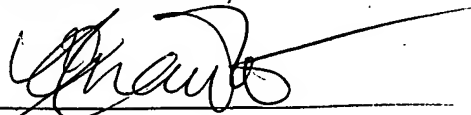
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner,



Tuan C To

October 19, 2005